



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

January 28, 1960

Mr. J. T. Ellis, Jr.  
Administrator  
Department of Health  
Austin, Texas

Opinion No. WW-794

Re: Under the Texas Hospital  
Licensing Law, Senate Bill  
121, Acts 56th Legislature,  
Regular Session, 1959, codi-  
fied as Article 4437f, V.C.S.,  
should all hospitals operated  
by a hospital district be  
individually licensed by the  
State Board of Health, and  
related questions.

Dear Mr. Ellis:

You have requested an opinion from this office as to whether all hospitals operated by a hospital district should be individually licensed and also whether the license fee for hospitals is based on the number of beds provided by the hospital. Section 4 of Senate Bill 121 provides that a hospital may not be maintained in this State without a license obtained under the provisions of Senate Bill 121.

"Sec. 4. After January 1, 1960, no person or governmental unit acting severally or jointly with any other person or governmental unit shall establish, conduct, or maintain a hospital in this state without a license obtained under the provisions of this law."

Section 2(d) of Senate Bill 121 defines the term "governmental" or "governmental unit" as included in Section 4 of Senate Bill 121 to mean:

"(d) The term 'governmental' or 'governmental unit' means any hospital district, county, municipality or other political subdivision, or any department, division, board, or other agency of any of the foregoing."

From the previous sections quoted, and Section 2(b) of Senate Bill 121, which defines the term "hospital":

"(b) The term 'hospital' means any institution, place, building, dwelling, or abode, whether

organized for profit or non-profit, general or special, private, public, or governmental, offering or making available any medical and/or surgical services, facilities, or equipment for a period of time extending either over night or beyond twenty-four (24) hours, for two (2) or more nonrelated individuals, whereby such services, facilities, or equipment can, may, or are used for and in connection with the observation, care, diagnosis or treatment of individuals who are, or may be, suffering from any disease or disorder, mental or physical, or any physical deformity or injury.

"The definition of 'hospital' specifically includes all places where pregnant females are received, cared for, or delivered, irrespective of the number of patients received or the duration of their stay.

"The definition of 'hospital' does not include those facilities licensed pursuant to the provisions of Article 4442c, Acts 1953 Legislature, page 1005, Chapter 413.

"The definition of 'hospital' does not include those institutions licensed pursuant to Articles 5547-88 to Articles 5547-99 of the Mental Health Code.

"The definition of 'hospital' does not include facilities maintained or operated by the Federal Government or agencies thereof, nor does it include facilities maintained or operated by the State of Texas or agencies thereof. The definition of 'hospital' does, however, include those facilities maintained or operated by 'governmental' or 'governmental unit' as those terms are defined in Section 2, subsection (d) of this Act.",

it is clear that the Legislature intended that each hospital should be licensed regardless of whether the hospital is in a hospital district or county, municipality or any other political subdivision. It is also clear from the terms of the statute that the controlling unit is not determinative of the number of licenses needed under this Act, but that each must be licensed.

You have also requested an opinion as to whether the license fee for the hospital or hospitals is based on the number

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of beds provided by the particular hospital which is being licensed. In Section 7 of Senate Bill 121, the statute provides:

"Each hospital so licensed shall pay a license fee, both initially and annually thereafter, of One Dollar (\$1.00) per bed, provided, however, that a minimum license fee of Twenty-five Dollars (\$25.00) will be required of those hospitals with less than twenty-five (25) beds, and a maximum license fee of Three Hundred Dollars (\$300.00) will be required of those hospitals with more than three hundred (300) beds."

The license fee is based on the number of beds provided by the hospital, subject to the \$25.00 minimum and \$300.00 maximum provisions contained in Section 7, and is not based upon the number of beds actually in use.

#### SUMMARY

Under Senate Bill 121, all hospitals operated by a hospital district must be individually licensed. The license fee for an individual hospital is based on the number of beds provided by the hospital.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By *John C. Steinberger*  
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JCS:ms:mfh:wb

APPROVED:

OPINION COMMITTEE

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REVIEWED FOR THE ATTORNEY GENERAL

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